

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66708 of 2022

Arising Out of PS. Case No.-763 Year-2022 Thana- TURKAULIYA District- East
Champaran

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1. UMESH MUKHIYA S/O Ramchandra Mukhiya R/O Village- Chailaha Bin Toli, P.S- Banjariya, District- East Champaran
 2. Jagu Mukhiya S/O Ramchandra Mukhiya R/O Village- Chailaha Bin Toli, P.S- Banjariya, District- East Champaran
 3. Lal Babu Mukhiya S/O Mishri Mukhiya R/O Village- Chailaha Bin Toli, P.S- Banjariya, District- East Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Shankar Shrivastava
For the Opposite Party/s : Mr.Manoj Kumar

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

3 09-02-2023 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

Heard learned counsel for the petitioners and learned
Special Public Prosecutor for the State.

The Petitioners are apprehending his arrest in a case registered for the offences punishable u/s 272, 273 read with 34 of the IPC and sections 30(a), 32, 34, 36, 41(i) of Bihar Prohibition and Excise Act.

As per the prosecution case, some miscreants were manufacturing country made liquor at the bank of the Dhanauti



river. A raid was conducted by the police and 40 litres of country made liquor was recovered while the miscreants fled away.

Learned counsel for the petitioners has submitted that the petitioners has falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioner. The petitioner no. 1 and 3 are accused in one more criminal case and the petitioner no. 2 has no criminal antecedent as stated in para 3 of the bail petition. Learned Counsel has relied on the judgment of Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar reported in 2019 (2) PLJR 1089**. The Full Bench in the case of **Ram Vinay Yadav (supra)** has held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner by submitting that the bar of Section 76(2) of the Act applies in this case.

Considering the aforesaid facts and circumstances of the case, as well as the nature of allegation, let the above named



petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, East Champaran in connection with Turkaulia P.S. Case No. 763 of 2022, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure with a condition:-

1. The court below shall verify the criminal antecedent of the petitioner and at any stage, if it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application stands allowed.

(Chandra Prakash Singh, J)

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